

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 99-0549P****Income Tax****Fiscal Year ending March 31, 1998**

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**ISSUE****I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

**STATEMENT OF FACTS**

The negligence penalty was assessed on an income tax billing which resulted from a late payment for the fiscal year ending March 31, 1998.

The taxpayer is a company with a commercial domicile that is located out-of-state.

**I. Tax Administration – Penalty****DISCUSSION**

The taxpayer argues the negligence penalty should be waived as the amount of estimated tax payments for the current year approximated the tax liability for the prior year.

The Department points out the penalty is the result of a late payment and not the result of estimated tax payments. IC 6-8.1-6-1(a) states that 90% of the tax due is to be paid by the due date of the return. The estimated tax payments approximated 15% of the tax liability. The due date of the return was July 15, 1999. The final payment of \$8,808, which approximates 85% of the liability, was not received until September 21, 1999, a date after the due date. As such, the taxpayer did not remit 90% of the tax liability by the due date of July 15, 1999, and therefore is subject to penalty and interest.

**FINDING**

The taxpayer's penalty protest is denied.